

ST 02-0180-GIL 08/13/2002 MANUFACTURING MACHINERY & EQUIPMENT

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL).

August 13, 2002

Dear Xxxxx:

This letter is in response to your letter dated June 19, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I am writing to get a ruling on whether our lessee and Co-Lessees would be exempt from paying sales tax on our lease.

We are leasing a hydraulic grinder, which they use when they rebuild transmissions. The rebuilt transmissions are then sold wholesale to automotive stores or shops.

I have called the IL tax help line and was told that our lessee would not qualify for an exemption because this considered repairing and not manufacturing. I would like to know if this lessee would qualify for an exemption of sales tax as a manufacturer?

I have enclosed a copy of the exemption certificate and the vendor's invoice for your review. I appreciated your assistance in handling this matter. If you require additional assistance, I can be reached at #.

DEPARTMENT'S RESPONSE:

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See the enclosed copy of 86 Ill. Adm. Code 130.330.

"Manufacturing" is defined as the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as

manufacturing, which changes some existing material or materials into a material with a different use, form, or name. These changes must result from the process in question and be substantial and significant.

If a purchaser-lessor leases machinery or equipment to a lessee-manufacturer that uses it in an exempt manner, the sale to the purchaser-lessor will be exempt from tax. However, should the purchaser-lessor subsequently lease the machinery or equipment to a lessee who does not use it in a manner that would qualify directly for the exemption, the purchaser-lessor will become liable for the tax from which he was previously exempted. See subsection (f) of Section 130.330.

In your specific case, how the lessee uses the hydraulic grinder will determine whether the exemption is available. If the lessee is obtaining used transmissions and rebuilding them for subsequent (wholesale or retail) sale or lease, then such use would generally qualify as manufacturing. However, if the lessee is repairing its customers' transmissions and is contractually required to return those specific transmissions to those customers, then the lessee would not be considered to be engaged in manufacturing and the exemption would not apply. Based upon the limited information in your letter describing the lessee's business, the lessee's use of the property may qualify as manufacturing under the manufacturing machinery and equipment exemption.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.